

Translation

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
 (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference C1-A0305P	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2004/004696	International filing date (<i>day/month/year</i>) 31.03.2004	Priority date (<i>day/month/year</i>) 31.03.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant CHUGAI SEIYAKU KABUSHIKI KAISHA		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 10 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
- a. (*sent to the applicant and to the International Bureau*) a total of _____ sheets, as follows:
 sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
- b. (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s))
1 disk, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input checked="" type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I	Basis of the report
<p>1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item:</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b)) <input type="checkbox"/> publication of the international application (Rule 12.4) <input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p>	
<p>2. With regard to the elements of the international application, this report is based on (<i>replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report</i>):</p> <p><input checked="" type="checkbox"/> the international application as originally filed/furnished <input type="checkbox"/> the description: pages _____ as originally filed/furnished pages* _____ received by this Authority on _____ pages* _____ received by this Authority on _____</p> <p><input type="checkbox"/> the claims: nos. _____ as originally filed/furnished nos.* _____ as amended (together with any statement) under Article 19 nos.* _____ received by this Authority on _____ nos.* _____ received by this Authority on _____</p> <p><input type="checkbox"/> the drawings: sheets _____ as originally filed/furnished sheets* _____ received by this Authority on _____ sheets* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p>	
<p>3. <input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____ <input type="checkbox"/> the claims, nos. _____ <input type="checkbox"/> the drawings, sheets/figs _____ <input type="checkbox"/> the sequence listing (<i>specify</i>): _____ <input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>	
<p>4. <input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____ <input type="checkbox"/> the claims, nos. _____ <input type="checkbox"/> the drawings, sheets/figs _____ <input type="checkbox"/> the sequence listing (<i>specify</i>): _____ <input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>	
<p>* If item 4 applies, some or all of those sheets may be marked "superseded."</p>	

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Box No. IV	Lack of unity of invention
<p>1. <input type="checkbox"/> In response to the invitation to restrict or pay additional fees the applicant has:</p> <ul style="list-style-type: none"> <input type="checkbox"/> restricted the claims. <input type="checkbox"/> paid additional fees. <input type="checkbox"/> paid additional fees under protest. <input checked="" type="checkbox"/> neither restricted the claims nor paid additional fees. <p>2. <input type="checkbox"/> This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.</p> <p>3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:</p> <ul style="list-style-type: none"> <input type="checkbox"/> complied with. <input checked="" type="checkbox"/> not complied with for the following reasons: <p style="margin-left: 20px;">Degraded antibodies that are capable of recognizing CD22, which are the only feature that is common to claims 1 to 13, can be considered to have been well-known (if necessary, refer to the document WO 98/42378 or the like); therefore, the abovementioned common feature cannot be considered to be a special technical feature. Such being the case, the inventions that are set forth in claims 1 to 13 cannot be considered to be so linked as to form a single general inventive concept.</p> <p>[Refer to the Supplemental Box]</p> <p>4. Consequently, this report has been established in respect of the following parts of the international application:</p> <ul style="list-style-type: none"> <input type="checkbox"/> all parts. <input checked="" type="checkbox"/> the parts relating to claims Nos. <u>1-13</u>, <u>SEQ ID NO: 1</u> 	

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																									
<p>1. Statement</p> <table> <tr> <td>Novelty (N)</td> <td>Claims</td> <td>3</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td><u>1, 2, 4-13</u></td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td><u>1-13</u></td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td><u>1-13</u></td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> </table>			Novelty (N)	Claims	3	YES		Claims	<u>1, 2, 4-13</u>	NO	Inventive step (IS)	Claims		YES		Claims	<u>1-13</u>	NO	Industrial applicability (IA)	Claims	<u>1-13</u>	YES		Claims		NO
Novelty (N)	Claims	3	YES																							
	Claims	<u>1, 2, 4-13</u>	NO																							
Inventive step (IS)	Claims		YES																							
	Claims	<u>1-13</u>	NO																							
Industrial applicability (IA)	Claims	<u>1-13</u>	YES																							
	Claims		NO																							
<p>2. Citations and explanations (Rule 70.7)</p> <p>The following documents are cited in the international search report.</p> <p>Document 1: WO 01/97858 A2 (IDEC Pharmaceuticals Corp.), 27 December 2001</p> <p>Document 2: WO 02/22212 A2 (IDEC Pharmaceuticals Corp.), 21 March 2002</p> <p>Document 3: WO 01/74388 A1 (IDEC Pharmaceuticals Corp.), 11 October 2001</p> <p>Document 4: WO 02/04021 A1 (IDEC Pharmaceuticals Corp.), 17 January 2002</p> <p>Document 5: JP 2001-518930 A (Immunomedics, Inc.), 16 October 2001</p> <p>Document 6: JP 2002-544173 A (Immunomedics, Inc.), 24 December 2002</p> <p>Document 7: JP 10-505231 A (Immunomedics, Inc.), 26 May 1998</p> <p>Document 8: P. HOLLIGER et al., "'Diabodies': small bivalent and bispecific antibody fragments," Proc. Natl. Acad. Sci. USA., 1993, No. 90, Vol. 14, p. 6444 to 6448</p>																										

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The inventions set forth in claims 1, 2 and 4 to 13 lack novelty and do not involve an inventive step in the light of documents 1 to 4.

Documents 1 to 4 all indicate that fragments from anti-CD22 antibodies exhibit an activity whereby they induce apoptosis in tumor cells such as lymphoma cells or leukaemic cells, and further present diabodies as examples of said fragments. Therein, the anti-CD22 antibodies that are employed in the examples of document 1 can be considered to be LL2 antibodies.

The inventions set forth in claims 1, 4 and 6 to 11 lack novelty and do not involve an inventive step in the light of documents 5 and 6.

Documents 5 and 6 both indicate that fragments from anti-CD22 antibodies are effective for the treatment of tumors that are caused by lymphoma, leukaemia or the like, and further present sFv proteins and the like as examples of said fragments. In addition, documents 5 and 6 present LL2 antibodies as examples of said anti-CD22 antibodies.

Therein, it is thought that the antibody fragments disclosed in documents 5 and 6 exhibit a therapeutic effect in relation to tumors because they induce apoptosis in cancer cells.

The inventions set forth in claims 1, 4 and 6 to 11 lack novelty and do not involve an inventive step in the light of document 7.

Document 7 indicates that fragments of LL2 monoclonal antibodies, which are anti-CD22 antibodies, are effective for the treatment of tumors that are caused by lymphoma, leukaemia or the like.

Therein, it is thought that the antibody fragments

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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disclosed in document 7 exhibit a therapeutic effect in relation to tumors because they induce apoptosis in cancer cells.

The invention set forth in claim 3 does not involve an inventive step in the light of documents 1 to 4 and documents 7 and 8.

Document 7 discloses the base sequence of the variable region in LL2 monoclonal antibodies.

Document 8 discloses a method for the preparation of diabodies, and also makes disclosures in relation to the feature of appending a linker sequence or a peptide tag.

As a result, it would be easy for a person skilled in the art to conceive of employing the base sequence for LL2 monoclonal antibodies that is disclosed in document 7 and the method for the preparation of diabodies that is disclosed in document 8 when preparing diabodies from the LL2 monoclonal antibodies that are disclosed in documents 1 to 4.

The inventions set forth in claims 2, 3, 5, 12 and 13 do not involve an inventive step in the light of documents 5 and 6 and documents 7 and 8.

It is thought that diabodies were known to be one type of antibody fragment at the time the present application was filed.

As a result, the antibody fragments that are disclosed in documents 5 and 6 include diabodies; therefore, it would be easy for a person skilled in the art to conceive of employing the base sequence for LL2 monoclonal antibodies that is disclosed in document 7 and the method for the preparation of diabodies that is disclosed in document 8 when preparing said fragments

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement (diabodies).
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The inventions set forth in claims 2, 3, 5, 12 and 13 do not involve an inventive step in the light of documents 7 and 8.

It is thought that diabodies were known to be one type of antibody fragment at the time the present application was filed.

As a result, the antibody fragments that are disclosed in document 7 include diabodies; therefore, it would be easy for a person skilled in the art to conceive of employing the base sequence for LL2 monoclonal antibodies that is disclosed in document 7 and the method for the preparation of diabodies that is disclosed in document 8 when preparing said fragments (diabodies).

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Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
WO 03/33654 A2 (E,X)	24.04.2003	15.10.2002	15.10.2001

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)

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Supplemental Box Relating to Sequence Listing**Continuation of Box No. 1, Item 2:**

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this report was established on the basis of:
 - a. type of material

a sequence listing
 table(s) related to the sequence listing
 - b. format of material

in written format
 in computer readable form
 - c. time of filing/furnishing

contained in the international application as filed
 filed together with the international application in computer readable form
 furnished subsequently to this Authority for the purposes of search and/or examination
 received by this Authority as an amendment* on _____
2. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
3. Additional comments:

* If item 4 in Box No. 1 applies, the listing and/or table(s) related thereto, which form part of the basis of the report, may be marked "superseded."

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In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box IV

As a result, the inventions that are set forth in claims 1 to 13 can be classified into four groups of inventions, as follows: (1) degraded antibodies which have the amino acid sequence that is set forth in SEQ ID NO: 1; (2) degraded antibodies which have the amino acid sequence that is set forth in SEQ ID NO: 3; (3) degraded antibodies which have the amino acid sequence of the CDR of SEQ ID NO: 5 or the CDR of SEQ ID NO: 7; and (4) degraded antibodies which have the amino acid sequence of the CDR of SEQ ID NO: 9 or the CDR of SEQ ID NO: 11.